

CHAPTER-5

ADMINISTRATIVE & LEGISLATIVE ISSUES :-

History of Municipal Administration in India :-

The first municipal authority in India was created by the East India Company, namely the Madras Municipal Corporation in 1688, which was followed by Municipal Corporations in Mumbai and Kolkata in 1762. A Parliamentary Act of 1792 gave the East India Company the power to levy municipal taxes in Madras. Under that authorization conservancy work was initiated in Madras by officers known as Surveyors and Collectors. The Act also authorized the Justices of Peace to make arrangements for the care of the streets and to license the sale of liquor. The Town Improvement Act, 1865 created Municipalities in the country. The Municipalities were elevated to the status of Local Self Government by the District Municipalities Act, 1884. During 1907 and 1908, the Royal Commission on Decentralization recommended the classification of all Municipalities on population basis, devolution of more power over taxation and budget, increasing the strength of membership and also elected proportion of the council. The Montague-Chelmsford report, 1918 suggested that "there should be as far as possible, complete popular control in the local bodies and longest possible independence for them of outside control" (Website of Madras Municipal Corporation).

The Municipal Governance did not evolve any further and municipalities continued to suffer for want of adequate financial resources. "Municipal executive in India has always been highly centralized and built on the notion of separation of executive powers and functions - the executive powers are exercised by the council or its standing committees, while the executive functions remain the prerogative of the Chief Executive-the Commissioner in the corporations and the chairman in the municipalities" (Abhijit Dutta, Municipal Finances in India, 1983). This is comparable to the Local Government in England with wide functions and powers where executive powers are exercised by the committee which relegates the position of the Mayor to a presiding officer unlike strong Mayor invested with full executive powers in the U.S.A. In the present times, except for the Mayor in Council system of Kolkata executive power vests with the Municipal Commissioner or the Chief Executive Officer. Unless there is complete understanding and cooperation between the Chief Executive Officer and the Council Municipal Authority cannot function smoothly.

with State Governments and the private sector as co-sponsors. These SPVS enter into concession agreements with state and local governments to build and operate infrastructure projects commercially by collecting user charges and resources raised through multi-lateral lenders and bond issuance. Some of the recent success stories of commercialization of urban infrastructure are Noida Toll Bridge across river Yamuna, Tirupur water supply and sewage project in Tamil Nadu, Moradabas Bypass etc.

Municipal Bonds:-

Municipal bonds are securitized debt instruments, providing future revenue flows from the project as collateral. Revenue flows generally comprise property tax, Octroi and user charges etc. When future revenues are considered insufficient to meet debt service obligations, a third-party guarantee from the state government is generally obtained and/or a debt service fund is generally created to obtain an investment grade rating for an issue with no track record in the capital markets (Pradhan, H.K., XLRI, Jamshedpur). Recent examples of Municipal Bonds for funding of urban infrastructure include Bangalore Mahanagar Palike in 1993, Ahmedabad, 1998, Nasik Municipal Corporation in 1999, Ludhiana 1999, Nagpur 2000, Madurai 2001, Indore Municipal Corporation 2001 and Second Bond Issue by Ahmedabad Municipal Corporation 2002.

Tamil Nadu has established the **Tamil Nadu Urban Development Fund in 1996** with participation of ICICI, HDFC and IL&FS and a line of credit from the World Bank. Over 500 projects covering water supply and sanitation, roads, bridges, street lights, solid waste plants, bus stations, shopping complexes in 90 out of 110 municipalities in Tamil Nadu were taken up by TUDF. I strongly recommend setting up of Jharkhand Urban Development Fund for raising capital investments and implementing urban infrastructure projects in various major towns of Jharkhand as individual ULBs may not have the institutional capacities to do so on their own.

fire their own personnel but in actual practice, it does not happen that way. Smaller and less urbanized ULBs will not be able to attract good personnel and local recruitment will be hazardous as all kinds of malpractices are apprehended as government/semi-government jobs carry a premium in our society.

Once there is a favourable legislative framework, regular elections and a nucleus of administrative structure ULBs can start functioning as units of self governance raising internal resources, setting standards of municipal services and undertaking delivery of services through a variety of instruments including 'Own Provision', 'Contracting Out', 'Public Private Partnership', 'Outsourcing' etc. There are a number of parallel government agencies engaged in Water Supply, Regional Development Authorities operating in municipal areas who can assist the ULBs in service delivery as long as they understand that their role is limited to being implementing agencies under the overall ownership and control of the ULBs.

Except Ranchi Municipal Corporation, the rest of the ULBs in Jharkhand are not properly organised and staffed. During my visit to Hyderabad, I had a detailed discussion with Principal Secretary, Urban Development, Government of Andhra Pradesh regarding the administrative structure and staffing of ULBs in Andhra Pradesh. A study has been carried out by an Expert Committee constituted by the Municipal Administration and Urban Development Department which submitted its report in December, 2006.

In Andhra Pradesh ULBs have two distinct wings. While the Mayor, chairpersons of the Standing Committees and Ward Counsellors constitute the Deliberative Wing, the Municipal Commissioner (in case of Municipal Corporations) and Chief Executive Officer (in case of municipalities) heads the Executive Wing. Commissioners of ULBs having 10 lakh and above population are from the IAS cadre and officers of State Municipal Cadre are posted as Chief Executive Officers of ULBs of various grades other than Municipal Corporations having population 10 lakh and above.

Commissioner/CEO is assisted by Addl. Commissioner or Addl. CEO as per the Grade of the ULB. Proposed Staffing Pattern of Andhra Pradesh ULBs is at **Annexure 5**. The ULB is organised into 7 sections namely (1) Administration, (2) Revenue, (3) Secretary (4) Public Health & Sanitation, (5) Engineering (6) Town Planning and (7) Urban Poverty Alleviation. Each section is headed by a senior officer or Technical Officer with other support staff (Details at **Annexure 5**). For example Revenue section is headed by Addl. Commissioner / Deputy

Commissioner/ Revenue Officer depending on the population and grade of the ULB who is assisted by one Bill Collector for every 3,000 assessment. There is one Revenue Inspector to supervise 4 Bill Collectors. There is a Revenue Officer for 2 circles each. Public Health & Sanitation Section is headed by a Municipal Health Officer who is assisted by one sanitary Inspector for every 40,000 population and one Sanitary Supervisor for every 5 Sanitary Inspectors. There is one Health Assistant/ Birth & Death Registrar for every 1 lakh population. Engineering Section is headed by Chief Engineer for Municipal Corporation above 10 lakh or other lower ranking Engineers depending on the Grade of the ULB. They are assisted by Deputy Executive and Assistant Engineers Electrical/Mechanical, Horticulture Officer, Draughtsman, CAD/GIS Operators etc. I am annexing the staffing norms and organizational chart proposed by the Committee at **Annexure 5** which can be suitably adopted for ULBs in Jharkhand.

In ULBs in Jharkhand, there is dearth of technical/managerial personnel to provide institutional support to the Chief Executive Officer/Special Officers in revenue collection and other essential municipal works as a result of which ULBs are not able to plan and execute municipal services or even to assess and collect Property Tax and other revenues. Most of their wage bills are spent on sanitary workers. It is needless to say that ULBs need to be properly organized, structured and staffed. The State Government should without any further delay provide Administrative, Accounts and Engineering personnel to ULBs by permanent secondment of officers from Jharkhand Civil Service, Finance Service and Engineering departments. In future yearly direct recruitment for Municipal cadre should be done by the Jharkhand Public Service Commission as is done for other state services. ULBs cannot be effectively managed by deputationists from other cadres as they have no permanent stake in ULBs. Due to economic recession there is a large pool of management, accounts and engineering graduates from reputed institution available for hiring and the State Government should immediately hire one management, one engineering and one accounts graduate for each ULB to form their nucleus staff who can be later absorbed in the proposed Municipal Cadre. Quality of trained manpower is of crucial importance for making ULBs functional entities in the state. Any neglect of this aspect will have adverse consequences for future of Urban Development in the state and towns of the state would not become growth centres. In short, I am suggesting creating a nucleus of managerial, engineering and accounts cadre for ULBs initially through permanent

secondment from State Services or contractual hiring and subsequently through regular recruitments by the State Public Service Commission.

Enactment of a new Jharkhand Municipal Act with a Municipal Financial Schedule and a Municipal List of Functions :-

Both the Bihar Municipal Act, 1922 and the Ranchi Municipal Corporation Act 1959 are completely outdated and as pointed out in preceding chapters constraining ULBs in mobilization of their resources. I have recommended in the preceding chapters that a Municipal Financial Schedule should be created by enacting a new Municipal Act. As suggested by the Development Research Group, RBI study (2007) "Municipal Finance Schedule" may comprise of "property tax including vacant land and taxation of Central and State Government properties (or service charges in lieu thereof), Entertainment Tax, Advertisement Tax, Business Licensing Fees, Motor Vehicle Tax or a share from the same, planning permission fees, development impact fees, betterment levy, a surcharge on stamp duty on registration deeds or a share from it and a proportion of the value added tax. Further, it may provide freedom to ULBs in matters of fixation of tax base and tax rate. Restrictions, if any, may only be stipulation of ceilings or maximum rate of levy and limiting the power to grant exemptions." Further, a Municipal List of functions on the lines of Schedule 1 of Kerala Municipal Act 1994 should also be included in the Act as mentioned in chapter 3.

Framework for Financing Urban Infrastructure:-

Most ULBs have weak resource base and capacity to recover the costs of services from user charges. The Draft State Development Report has also suggested sourcing alternative funding for substantial investment in infrastructure and new modes of service delivery including private sector participation in service delivery and access private capital markets and bond markets. Jawahar Lal Nehru National Urban Renewal Mission under which 3 cities names Ranchi, Dhanbad and Jamshedpur are identified also emphasizes recourse to private sector participation in service delivery and accessing Capital markets for new capital investments in urban infrastructure. As the Fiscal Responsibility and Budget Management Act imposes restrictions on State Government Guarantees ULBs will have to access funds by issuing Tax Free Municipal Bonds not backed by Government guarantees. There is no provision in the Municipal Act, 1922 to allow Municipalities to borrow, therefore, a new Bill providing for the same will have to be enacted. IL &FS has floated several Special Purpose Vehicles (SPVS)

Municipal Personnel :-

These are the following three systems of Municipal Personnel obtaining in India :-

- A.** A separate personnel system by which each local authority appoints its employees (The Second Administrative Reforms Commission of India headed by Sh. Veerappa Moily has favoured this system).
- B.** Separate State Level Municipal Executive and Technical Services with personnel transferable between the local authorities. Class III and IV employees are hired locally by ULBs.
- C.** Deputation of Executive and Technical Personnel to ULBs from state cadres except class III & IV personnel who are recruited locally.

Most states with strong Local Self Governance like Kerala, Andhra Pradesh, Maharashtra have constituted state level Local Self Government/Municipal cadre. Only Municipal Commissioners in Corporations above 10 lakh population are deputationists from the IAS or State Service but rest of the senior executives are from the State LSG/Municipal Service whereas class III & IV personnel are hired locally by each ULB.

ADMINISTRATIVE STRUCTURE AND STAFFING FOR ULBs IN JHARKHAND :-

In the absence of regular elections to the ULBs in Jharkhand, they have been functioning as mere adjuncts of the Urban Development Department nominally supervised by the District Deputy Commissioner. Except Ranchi Municipal Corporation which has a senior scale IAS officer as the Chief Executive Officer most other ULBs in Jharkhand have officials of various levels deputed from the Urban Development Department working as their Special Officers or Executive Officers. Other than a few assistants/typists most of their regular employees comprise of sanitation workers. Each ULB requires an administrative structure of its own comprising of Management, Engineering and Accounts personnel with requisite support staff. The neighbouring state of Bihar is contemplating creation of 'The Bihar Municipal Executive Officers Service'. This is a good initiative as there are district advantages of having a state-level organised service for ULBs. However, the proposed service needs to be broad based to include Engineering and Accounts sub-cadres as well. Such municipal officers will be transferable from one ULB to another and as they gain seniority from lower grade to higher grade ULBs. Ideally each Local Self Government institution should have the freedom to hire and